

AMENDED IN SENATE APRIL 30, 2013

AMENDED IN SENATE APRIL 3, 2013

SENATE BILL

No. 61

Introduced by Senator Yee

January 8, 2013

An act to amend Sections 225, 226, 229, and 230 of, and to add Section 208.3 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 61, as amended, Yee. Juveniles: solitary confinement.

(1) Existing law permits minors who are detained in juvenile hall for habitual disobedience, truancy, or curfew violation to be held in the same facility as minors who are detained for violating any law or ordinance defining a crime, if they do not come or remain in contact with each other. Existing law also permits the detention of minors in jails and other secure facilities for the confinement of adults if the minors do not come, or remain, in contact with confined adults and other specified conditions are met.

Existing law, the Lanterman-Petris-Short Act, authorizes the involuntary detention for a period of 72 hours for evaluation of persons, including minors, who are dangerous to self or others, or gravely disabled, as defined.

This bill would provide that a minor or ward who is detained in, or sentenced to, any juvenile facility or other secure state or local facility shall not be subject to solitary confinement, as defined, unless the minor or ward poses an immediate and substantial risk of harm to others or to the security of the facility, and all other less-restrictive options have been exhausted. The bill would permit the minor or ward to be held in solitary confinement only in accordance with specified guidelines,

including that the minor or ward be held in solitary confinement only for the minimum time required to address the safety risk, and that does not compromise the mental and physical health of the minor or ward. The bill would require clinical staff to evaluate a minor or ward face-to-face within one hour after placement, and every 4 hours thereafter, to determine the health and mental health status of the minor or ward, as specified. This bill would prohibit a minor or ward from being placed in solitary confinement for more than 24 hours in a one-week period without obtaining specified written approval, which requires the consideration of the health and mental health clinical evaluations, as prescribed. This bill would prohibit a minor or ward who, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, from ~~continued~~ solitary confinement, and require the minor or ward to be transported to and evaluated at a Lanterman-Petris-Short Act designated facility. The bill would ~~prohibit require a clinician to closely monitor the condition of a minor or ward who does not reveal signs of mental disorder but who has exhibited suicidal behavior or committed acts of~~ *exhibits risk of self-harm from or suicidal behavior that is not a result of a mental disorder, and would prohibit continued solitary confinement, except as specified confinement for that minor or ward.* By increasing the duties of local juvenile facilities, the bill would impose a state-mandated local program.

(2) Existing law establishes a juvenile justice commission in each county, but authorizes the boards of supervisors of 2 or more adjacent counties to agree to establish a regional juvenile justice commission in lieu of a county juvenile justice commission. Existing law specifies the membership of these commissions, including that 2 or more members shall be persons who are between 14 and 21 years of age, inclusive, and that a regional juvenile justice commission shall consist of not less than 8 citizens. Existing law requires a juvenile justice commission to annually inspect any jail or lockup that, in the preceding calendar year, was used for confinement for more than 24 hours of any minor, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court and the Board of State and Community Corrections. Existing law authorizes a commission to recommend to any person charged with the administration of the Juvenile Court Law those changes as it has concluded, after investigation, will be beneficial, and to publicize its recommendations.

This bill would provide that 2 or more members of these commissions shall be parents or guardians of previously or currently incarcerated

youth, and one member shall be a licensed social worker, licensed psychiatrist, or licensed psychologist with expertise in adolescent development. The bill also would increase from 8 to 10 the minimum number of members of a regional juvenile justice commission. The bill would require a juvenile justice commission, as part of its annual inspection of facilities, to review the records of the jail, lockup, or facility as to the use of solitary confinement, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court, the county board of supervisors, and the Board of State and Community Corrections. The bill would require the commission to present its report at an annual hearing on the condition of juvenile justice corrections as part of a regularly scheduled public meeting of the county board of supervisors, and to publish the report on the county government Internet Web site. The bill also would require a commission to publicize its recommendations made to any person charged with administration of the Juvenile Court Law on the county government Internet Web site.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 208.3 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 208.3. (a) For purposes of this section, the following
- 4 definitions shall apply:
- 5 (1) "Clinician" means a licensed health or mental health care
- 6 professional.
- 7 (2) "Health and mental health clinical evaluations" means
- 8 evaluations conducted by a licensed health care professional and
- 9 a licensed mental health care professional, respectively, to check
- 10 the health and mental health status of the minor or ward.
- 11 (3) "Minor" means a person who is any of the following:

1 (A) A person under 18 years of age.

2 (B) A person under the maximum age of juvenile court
3 jurisdiction who is confined in a juvenile facility.

4 (C) A person under the jurisdiction of the Department of
5 Corrections and Rehabilitation, Division of Juvenile Facilities.

6 (4) “Solitary confinement” means the involuntary holding of a
7 person in a room or cell from which the person is prevented from
8 leaving, in isolation from persons other than guards, facility staff,
9 and attorneys, during hours other than a facility’s sleeping hours.

10 (5) “Ward” means a person who has been declared a ward of
11 the court pursuant to subdivision (a) of Section 602.

12 (b) A minor or ward who is detained in, or sentenced to, any
13 juvenile facility or other secure state or local facility shall not be
14 subject to solitary confinement, unless the minor or ward poses an
15 immediate and substantial risk of harm to others or to the security
16 of the facility, and all other less-restrictive options have been
17 exhausted. A minor or ward may be held in solitary confinement
18 only in accordance with all of the following guidelines:

19 *(1) If a minor or ward, as a result of mental disorder, is a danger*
20 *to others, or to himself or herself, or gravely disabled, he or she*
21 *shall not be subject to solitary confinement, and shall be*
22 *transported to, and evaluated at, a Lanterman-Petris-Short Act*
23 *designated facility pursuant to Section 5150 or Section 5585.50.*

24 ~~(1)~~

25 (2) The minor or ward shall be held in solitary confinement only
26 for the minimum time required to address the safety risk, and that
27 does not compromise the mental and physical health of the minor
28 or ward.

29 ~~(2)~~

30 (3) (A) The minor or ward shall be evaluated, within one hour
31 after placement in solitary confinement and every four hours
32 thereafter, face-to-face by a clinician to determine the health and
33 mental health status of the minor or ward. Each health and mental
34 health clinical evaluation shall be documented and shall include
35 an assessment of the risks to the minor or ward posed by continued
36 placement in solitary confinement.

37 *(B) If a minor or ward exhibits risk of self-harm or suicidal*
38 *behavior that is not a result of a mental disorder, a clinician shall*
39 *monitor closely the condition of the minor or ward in order to*
40 *reduce or eliminate the risk of self-harm and the minor or ward*

1 *shall not be subject to continued solitary confinement. If the*
2 *clinician determines, using his or her judgment, that more intense*
3 *intervention is needed, the minor or ward shall be moved to a*
4 *mental health hospital, and an individualized suicide crisis*
5 *intervention plan for the minor or ward shall be approved by a*
6 *clinician within four hours after the move.*

7 ~~(3)~~

8 (4) The minor or ward shall not be placed in solitary
9 confinement for more than 24 hours in a one-week period without
10 the written approval of the Chief of the Division of Juvenile
11 Facilities, or his or her designee, or the chief probation officer, or
12 his or her designee, who shall not approve continued solitary
13 confinement unless he or she has first obtained the results of, and
14 considered, the health and mental health clinical evaluations.

15 ~~(4) If a minor or ward, as a result of mental disorder, is a danger~~
16 ~~to others, or to himself or herself, or gravely disabled, he or she~~
17 ~~shall not be subject to continued solitary confinement, and shall~~
18 ~~be transported to and evaluated at a Lanterman-Petris-Short Act~~
19 ~~designated facility pursuant to Section 5150 or Section 5585.50.~~

20 (c) Solitary confinement shall not be used for the purposes of
21 discipline, punishment, coercion, convenience, or retaliation by
22 staff.

23 ~~(d) (1) A minor or ward who after a clinical evaluation does~~
24 ~~not reveal signs of mental disorder and who has exhibited suicidal~~
25 ~~behavior or committed acts of self-harm shall not be subject to~~
26 ~~solitary confinement, except pursuant to Section 5150 or Section~~
27 ~~5585.50 or as provided in paragraphs (1) and (2) of subdivision~~
28 ~~(b) and if both of the following conditions are met:~~

29 ~~(A) The condition of the minor or ward is monitored closely by~~
30 ~~a clinician in order to reduce or eliminate the risk of self-harm.~~

31 ~~(B) Treatment staff implement an individualized suicide crisis~~
32 ~~intervention plan approved by a clinician within four hours of~~
33 ~~placing the minor or ward in solitary confinement.~~

34 ~~(2) The minor or ward shall be moved to an offsite hospital or~~
35 ~~mental health hospital if the suicide risk is not resolved within 24~~
36 ~~hours.~~

37 ~~(e)~~

38 (d) Each local and state juvenile facility shall document the
39 usage of solitary confinement, including the dates and duration of
40 each occurrence and the reason for placement in solitary

1 confinement. These records shall affirmatively certify that health
2 and mental health clinical evaluations were conducted and the
3 results of those evaluations were considered in any decision to
4 place a minor or ward in solitary confinement or to continue
5 solitary confinement. These records shall be available for public
6 inspection pursuant to the California Public Records Act (Chapter
7 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
8 the Government Code).

9 (f)

10 (e) Nothing in this section shall be construed to conflict with
11 any law providing greater or additional protections to minors or
12 wards.

13 SEC. 2. Section 225 of the Welfare and Institutions Code is
14 amended to read:

15 225. (a) In each county there shall be a juvenile justice
16 commission consisting of not less than seven and no more than 15
17 citizens. Two or more members shall be persons who are between
18 14 and 21 years of age, inclusive, if there are available persons
19 between 14 and 21 years of age, inclusive, who are able to carry
20 out the duties of a commission member in a manner satisfactory
21 to the appointing authority. Two or more members shall be parents
22 or guardians of previously or currently incarcerated youth. One
23 member shall be a licensed social worker, licensed psychiatrist,
24 or licensed psychologist with expertise in adolescent development.
25 Each person serving as a member of a probation committee
26 immediately prior to September 15, 1961, shall be a member of
27 the juvenile justice commission and shall continue to serve as such
28 until his or her term of appointment as a member of the probation
29 committee would have expired under any prior law. Upon a
30 vacancy occurring in the membership of the commission, and upon
31 the expiration of the term of office of any member, a successor
32 shall be appointed by the presiding judge of the superior court with
33 the concurrence of the judge of the juvenile court or, in a county
34 having more than one judge of the juvenile court, with the
35 concurrence of the presiding judge of the juvenile court for a term
36 of four years. If a vacancy occurs for any reason other than the
37 expiration of a term of office, the appointee to fill the vacancy
38 shall hold office for the unexpired term of his or her predecessor.

39 (b) Appointments may be made by the presiding judge of the
40 superior court, in the same manner designated in this section for

1 the filling of vacancies, to increase the membership of a
2 commission to the maximum of 15 in any county that has a
3 commission with a membership of less than 15 members.

4 (c) In any county in which the membership of the commission,
5 on the effective date of amendments to this section enacted at the
6 1971 Regular Session of the Legislature, exceeds the maximum
7 number permitted by this section, no additional appointments shall
8 be made until the number of commissioners is less than the
9 maximum number permitted by this section. In any case, that
10 county's commission membership shall, on or after January 1,
11 1974, be no greater than the maximum permitted by this section.

12 SEC. 3. Section 226 of the Welfare and Institutions Code is
13 amended to read:

14 226. In lieu of county juvenile justice commissions, the boards
15 of supervisors of two or more adjacent counties may agree to
16 establish a regional juvenile justice commission consisting of not
17 less than 10 citizens, and having a sufficient number of members
18 so that their appointment may be equally apportioned between the
19 participating counties. Two or more members shall be persons
20 who are between 14 and 21 years of age, inclusive, if there are
21 available persons between 14 and 21 years of age, inclusive, who
22 are able to carry out the duties of a commission member in a
23 manner satisfactory to the appointing authority. Two or more
24 members shall be parents or guardians of previously or currently
25 incarcerated youth. One member shall be a licensed social worker,
26 licensed psychiatrist, or licensed psychologist with expertise in
27 adolescent development. The presiding judge of the superior court
28 with the concurrence of the judge of the juvenile court or, in a
29 county having more than one judge of the juvenile court, with the
30 concurrence of the presiding judge of the juvenile court of each
31 of the participating counties shall appoint an equal number of
32 members to the regional justice commission and the members shall
33 hold office for a term of four years. Of those first appointed,
34 however, if the number appointed is an even number, half shall
35 serve for a term of two years and half shall serve for a term of four
36 years. If the number of members first appointed is an odd number,
37 the greater number nearest half shall serve for a term of two years
38 and the remainder shall serve for a term of four years. The
39 respective terms of the members first appointed shall be determined
40 by lot as soon as possible after their appointment. Upon a vacancy

1 occurring in the membership of the commission, and upon the
2 expiration of the term of office of any member, a successor shall
3 be appointed by the presiding judge of the superior court with the
4 concurrence of the judge of the juvenile court or, in a county having
5 more than one judge of the juvenile court, with the concurrence
6 of the presiding judge of the juvenile court of the county that
7 originally appointed the vacating or retiring member. If a vacancy
8 occurs for any reason other than the expiration of a term of office,
9 the appointee shall hold office for the unexpired term of his or her
10 predecessor.

11 SEC. 4. Section 229 of the Welfare and Institutions Code is
12 amended to read:

13 229. (a) It shall be the duty of a juvenile justice commission
14 to inquire into the administration of the juvenile court law in the
15 county or region in which the commission serves. For this purpose
16 the commission shall have access to all publicly administered
17 institutions authorized or whose use is authorized by this chapter
18 situated in the county or region, shall inspect those institutions at
19 least once a year, and may hold public hearings. A judge of the
20 juvenile court may issue subpoenas requiring attendance and
21 testimony of witnesses and production of papers at hearings of the
22 commission.

23 (b) A juvenile justice commission shall annually inspect any
24 jail, lockup, or facility within the county that, in the preceding
25 calendar year, was used for confinement for more than 24 hours
26 of any minor. As part of the annual inspection, the commission
27 shall review the records of the jail, lockup, or facility as to the use
28 of solitary confinement, as defined in paragraph (3) of subdivision
29 (a) of Section 208.3. The commission shall report the results of
30 the inspection, together with its recommendations based thereon,
31 in writing, to the juvenile court, the county board of supervisors,
32 and the Board of State and Community Corrections. The
33 commission shall present its report at an annual hearing on the
34 condition of juvenile justice corrections as part of a regularly
35 scheduled public meeting of the county board of supervisors, and
36 shall publish the report on the county government Internet Web
37 site.

38 SEC. 5. Section 230 of the Welfare and Institutions Code is
39 amended to read:

1 230. A juvenile justice commission may recommend to any
2 person charged with the administration of any of the provisions
3 of this chapter those changes as it has concluded, after
4 investigation, will be beneficial. A commission shall publicize its
5 recommendations on the county government Internet Web site.

6 SEC. 6. If the Commission on State Mandates determines that
7 this act contains costs mandated by the state, reimbursement to
8 local agencies and school districts for those costs shall be made
9 pursuant to Part 7 (commencing with Section 17500) of Division
10 4 of Title 2 of the Government Code.

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